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STATE FOR VCI/CCA, EUR/RPM  
NSC FOR HAYES  
JCS FOR J5/COL NORWOOD  
OSD FOR ISA (PERENYI)

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TAGS: [KCFE](#) [OSCE](#) [PARM](#) [PREL](#) [RS](#)  
SUBJECT: CFE/JCG: FALL END-OF-ROUND: GEORGIA CRISIS;  
RUSSIAN NON-COMPLIANCE; ALLIED UNITY

REF: A. USOSCE 210 (9 SEP)  
[1](#)B. USOSCE 217 (18 SEP)  
[1](#)C. USOSCE 225 (24 SEP)  
[1](#)D. USOSCE 240 (9 OCT)  
[1](#)E. USOSCE 247 (15 OCT)  
[1](#)F. USOSCE 253 (21 OCT)  
[1](#)G. USOSCE 263 (30 OCT)  
[1](#)H. USOSCE 265 (5 NOV)  
[1](#)I. USOSCE 273 (13 NOV)  
[1](#)J. USOSCE 278 (18 NOV)  
[1](#)K. USOSCE 286 (25 NOV)  
[1](#)L. STATE 128974 (LEGAL)  
[1](#)M. USOSCE 298 (12 DEC)  
[1](#)N. USOSCE 313 (16 DEC)

Classified By: Chief Arms Control Delegate Hugh Neighbour,  
for reasons 1.4(b) and (d).

[1](#)1. (C) Summary: The autumn session of the Joint Consultative Group was dominated by fallout from Russia,s invasion of Georgia and Russia,s continued non-compliance with its CFE Treaty obligations (i.e., refusal of inspections and failure to provide information exchange data). Russia continued to try to place the blame for its moratorium on NATO states, alleged refusal to address its security concerns. USDel met goals of ensuring Allied unity on CFE issues in Vienna and encouraging almost all other States Parties to repeatedly join the U.S. in expressing concern about Russia,s non-compliance, urging Russia to cease its suspension of the Treaty, and to agree to the parallel action package so all can move forward. Continued U.S. leadership in 2009 remains critical for managing the process among Allies. The session ended with expectations of positive momentum from the December 17 Fried/Antanov bilateral -- Allies, perceptions of U.S. efforts on the bilateral track remain critical. The opening of the winter round on January 20 provides an opportunity for the U.S. to outline plans to Allies for next steps. End summary.

How the Stage is Set for 2009  
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[1](#)2. (C) Comment: Russia continues to signal its growing impatience with the senior-level bilateral meetings

(Fried/Antanov), alleging both infrequency and lack of substance. Russia has repeatedly called into question the ability at that level to discuss a definition for "substantial combat forces," modalities for accession of new partners, or amendments to the adapted Treaty. Russia consistently advocates that the JCG be given the remit to move these issues forward. More recently, Russia accused the NATO states of passivity in finding a solution.

13. (C) Allies have maintained unity in responding to Russian statements, making it clear that the JCG can not move forward until Russia agrees to the parallel action package per the NAC March 28 and December 3 statements. Allies consistently express concerns that Russia,s non-compliance is damaging the Treaty and call upon Russia to return to full implementation. As this session progressed, several high-level meetings were held elsewhere, allowing the JCG delegations to exercise patience and giving the separate meetings the chance to address the impasse.

14. (C) However, all delegations are impatiently anticipating movement at a minimum from the December 17 bilateral exchange, and are prepared to play a constructive role when the time is right. Germany is particularly eager to become more active and may not wait. If there is no perception of the U.S. trying to make the bilateral U.S.-Russia track work, Allied unity on CFE could fall prey to counterproductive unilateral efforts. Delegations will certainly be looking to the U.S. for leadership on next steps in general, but for the JCG in particular, if appropriate, when the winter session begins on January 20. Continued U.S. leadership is vital to ensure continued Allied unity and ultimately, positive results. End comment.

#### Georgia Invasion Negative Fallout -----

15. (SBU) At the beginning of the fall session on September 9, the U.S. and a number of Allies made statements objecting to Russia,s action in Georgia in August. The interventions centered on three themes: deploring Russia,s disproportionate use of force (based on the August 19 NAC statement); condemning Russia,s recognition of South Ossetia and Abkhazia (August 27 NAC statement); and violation of the CFE Treaty provision obligating States to "refrain from the threat or use of force against the territorial integrity or political independence of any State."

16. (C) Although there was no joint statement by NATO states as a group, all national statements were solid and left a strong impression of Allied solidarity. Russia blamed the events on Georgia,s "criminal military adventurism" and challenged Allies recognition of Kosovo as a double standard with respect to Russia,s recognition of the Georgian provinces.

17. (SBU) On October 14, Georgia accused Russia of violating core principles of the CFE Treaty (non-use of force, host nation consent) and asserted that Russia,s actions further undermine the Treaty and its principles. Georgia received broad support from Allies for its statement, including references to the NAC statements of August 19th and 27th. Many echoed the U.S. theme that Russia,s actions in Georgia have further complicated the impasse on CFE. Turkey stressed that no State Party has an interest in the collapse of CFE and raised concern that there is no means to verify whether or not Russia is abiding CFE,s numerical limitations. Romania raised Russia,s failure to uphold the Istanbul Commitments.

18. (C) Russia accused States of having "selective memory" with respect to the Istanbul Commitments and accused others of imposing "double standard" policies (another reference to recognition of Kosovo). Russia claimed that the U.S. and others made a "strategic oversight" by linking ratification of Adapted CFE to "secondary issues", e.g., Istanbul Commitments. The U.S. stressed that the Treaty is not an

instrument that can be implemented "a la carte." Comment:  
The U.S. played a critical role in prepping the Georgian  
statement for content, and by garnering support of Allies.  
U.S. efforts ensured the message was delivered successfully,  
and earned us credit both with Allies and Georgia. End  
comment.

¶9. (SBU) On October 21, the Czech Republic, Georgia and U.S.  
engaged Russia on its failure to fully implement the Istanbul  
Commitments. The Czechs pointed out that Georgia and Moldova  
have fulfilled their part of the agreement and accused Russia  
of not fulfilling its part. Georgia pointed out several  
areas where Russia had not complied with the agreement, and  
promised to provide a legal analysis of Georgia,s  
fulfillment and Russia,s shortcomings. The U.S. emphasized  
that the concept of "host nation consent" was paramount to  
move forward beyond the current impasse.

¶10. (SBU) On October 28, Georgia provided the promised legal  
analysis detailing Russia,s failure to fulfill many of its  
Istanbul Commitments. Georgia noted that although Russia had  
reduced its Treaty limited equipment in a timely manner, and  
closed the Vaziani base, Russia had stopped its withdrawal  
from Gudauta, maintained combat forces there and used it in  
support of its invasion into Georgian territory. Russia  
countered that it had not violated provisions of CFE, but had  
exercised its rights under Article 51 to defend civilians and  
Russian peace keeping forces in South Ossetia.

¶11. (SBU) Russia claimed several times that Gudauta was no  
longer an issue because it now belongs to Abkhazia. Germany

challenged this Russian position and questioned how a state  
that has not been recognized by any other States except  
Russia is supposed to fulfill a commitment signed by Russia  
in 1999? Germany expressed the belief that Russia,s attempt  
to pawn off this responsibility onto Abkhazia only made the  
situation more complicated.

¶12. (SBU) Russia also claimed that Georgia had not lived up  
to its agreement by not setting up an anti-terrorist center  
in Batumi. Russia questioned why delegations were not  
raising Georgia,s non-compliance in the JCG. Russia also  
claimed that Georgia made a strategic error in attempting to  
resolve the South Ossetian/Abkhazia issue through arms  
control mechanisms. Russia cares about CFE, but not less  
than other subjects. Russia also expressed disbelief that  
States would link local conflicts to the "cornerstone of  
European security" and wondered which was more important.  
Georgia took the opportunity to mention a newspaper article  
titled, "Russia Killed CFE and Buried it in Georgia."

Russia,s CFE Inspection Refusals Mount...

¶13. (SBU) In September, the U.S. and Turkey announced that  
Russia had refused additional inspection requests.  
Throughout the session on a nearly weekly basis, delegations  
brought such refusals to the attention of the JCG (including  
Bulgaria, Spain, Romania, Slovakia, UK, Czech, Germany,  
Norway, Italy, Poland, and Canada). USDel successfully  
encouraged other NATO states to show solidarity by expressing  
support for aggrieved Allies on these occasions, especially  
neighboring states - and they did so regularly. Russia  
consistently reminded States that its moratorium prevented it  
from hosting such inspections, and blamed Allies for not  
addressing its concerns that led to the moratorium. France  
characterized Russia,s actions as "paralyzing" CFE, and  
Romania said their actions were contributing to the "erosion"  
of the Treaty. In December, the U.S. noted that Russia had  
denied over two dozen inspections over the past year. A  
chorus of Allies said Russia,s actions further undermine the  
Treaty.

....And Lack of Information Exchange

¶14. (SBU) On October 28, the U.S. raised Russia,s failure to

provide quarterly information on its forces in Kushchevskaya as of October 1, as required by the Final Document of the First Review Conference. At USDel urging, all of the States with coastline on the Black Sea (except Russia) expressed similar concerns over this Russia failure, as did Britain, Germany, France and Norway.

¶15. (C) On November 10, Allies began preparations for a joint statement drawing on the NATO communique, on Russia,s likely non-participation in the December 15 information exchange. On November 25, Russia informally told delegations that, like last year, it would not provide its CFE Treaty data on December 15, but rather provide a one-page aggregate summary.

Norway provided draft language to Allies for the NATO statement on Russia,s lack of data, including a paragraph from the draft NAC communique. A JCG-T was held in Helsinki on the margins of the OSCE Ministerial to finalize the text after the NAC December 3 statement was agreed. Poland, on behalf of the Allies in the CFE Treaty, presented the statement on December 16, regretting Russia,s act on non-compliance with its Treaty obligations.

Suspension Legal - or Not?

¶16. (SBU) On October 14, Russia made a long statement claiming that its suspension of CFE is in accordance with customary international law and the Vienna Convention on Treaties. Russia cited its July 30 note to the Treaty depositary (Netherlands) which put forth its case for

suspension. On November 18, U.S. comments on another refused inspection noted that "neither the CFE Treaty nor customary international law" provide a basis for Russia,s action. Russia then repeated its claims that it has a basis for legal suspension, and challenged the U.S. to provide its own detailed legal arguments.

¶17. (SBU) On December 9, the U.S. presented its legal analysis strongly refuting Russia,s claim that it has such a legal basis. The U.S. analysis effectively cleared the air and was welcomed and supported by several Allies. Russia thanked us for providing the long-sought information, and will send it to Moscow for review during the recess. Germany cautioned that a legal debate will not move us forward and urged for a joint political approach, with a clear nod to the pending December 17 bilateral meeting.

Let the JCG work on the Parallel Plan

¶18. (C) Russia continued to press for JCG discussion of parts of the parallel action plan as the best venue to deal with all the issues. Russia complained that the Fried-Antonov meetings do not happen frequently enough to make real progress. Also, those meetings do not include all interested parties (meaning non-NATO States Parties).

¶19. (C) On November 25, Russia previewed that on December 9 it would make a pitch for how the JCG can play a role in "saving CFE." On December 9, Russia took note of the joint NATO statement citing paragraph 34 of the December 3 NAC statement that calls upon Russia for further cooperation. Russia believes the JCG is the best place to tackle the parallel plan, which needs further work as it is unbalanced. Russia repeated its spurious claim that the plan requires actions by Russia, but only promises by NATO states. In reply, Allies unanimously called upon Russia to agree to the parallel plan first, as a prerequisite for discussing elements of it in the JCG. Russia,s behavior in Georgia and at the OSCE Ministerial had not made it any easier to move forward in the JCG or elsewhere.

¶20. (C) On the eve of the December 17 U.S.-Russia senior bilateral, Russia again challenged the joint statement by NATO states in the Treaty referring to further cooperation. Russia asked "where and when" was such cooperation supposed to happen? The U.S. replied that Russia could begin,

"tomorrow, at the Fried-Antonov talks in Geneva." In a move intended to drive a wedge among other parties, Russia asked how could such cooperation happen if all interested states were not taking part? The U.S., Turkey, and Germany clarified that the U.S. was not in Geneva only for itself, but would be leading on behalf of NATO states.

JCG - Let,s Keep on Meeting  
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¶21. (SBU) In September, USDel put forward the proposal to cut back on the number of JCG meetings, as discussed and endorsed at the HLTF. Allied delegations resisted this notion, saying it is important to keep all lines of communication open, but agreed to propose cancelling a total of 3 meetings.

This was resisted by Russia which pointed to its right as a State Party to call meetings. In the end, there was agreement to cancel one meeting that conflicted with another event outside Vienna. In a flurry of consultations in late November, the JCG agreed to end the session on December 19, and resume in 2009 on January 20. The U.S. expressed regret for this "business as usual" schedule, and urged States to consider scheduling meetings when there is really something to discuss. Russia warned that holding fewer JCG meetings might send a "bad political sign" that we have in fact "buried CFE." (JCG.DEC/3/08)

¶22. (SBU) Comment: Most Allies did not support reducing the schedule to monthly or bi-weekly plenary meetings. Pending

the results of the December 17 U.S.-Russia bilateral meeting and other policy decisions, we may be able to revisit this proposal in 2009 if appropriate. However, for the time being there does not appear to be any appetite for decreasing the number of meetings except on a case-by-case basis as other events provide such an opportunity. End comment.

No Consensus on a JCG Letter to the Ministerial  
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¶23. (SBU) On October 3, the Dutch delegation provided a draft "JCG Letter" to Ministers for Allied review and coordination before introducing it to the JCG for discussion.

The U.S. provided initial remarks to include a reference to the Istanbul Commitments, and suggested it should reflect what the JCG has actually covered, rather than sticking to a short and factual statement that would, in effect, be misleading. The U.S. and Germany debated the best way to capture Russia,s suspension of the Treaty. In mid-October, the JCG Chair troika (Norway, Netherlands, and Portugal) agreed to share the outline of the letter with Russia to test the waters on its acceptability. On October 28, Portugal informed Allies that informal consultations on the text were not promising. Georgia was insisting on a reference to Russia,s violation of the CFE Treaty during the recent conflict. In comparing Allied text with a paragraph proposed by Russia, it became clear that consensus would be impossible on such a letter. The JCG plenary agreed with the Chair,s suggestion to not prepare a letter this year.

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